

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on May 28, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The Protonix, Promethazine, Pentax/Apap and Carisoprodol from 06-02-03 through 07-15-03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 12th day of August, 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service through in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 12th day of August, 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

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NOTICE OF INDEPENDENT REVIEW DECISION

July 30, 2004

Re: IRO Case # M5-04-3281, amended 8/3/04

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Neurological Surgery, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service
2. Explanation of benefits
3. Utilization review report 4/13/03
4. Lumbar CT scan report 3/10/04
5. Neurosurgeon operative reports and medical reports late 1990s –2004
6. Employers first report of illness 8/12/96

History

The patient is a 54-year-old male who was lifting and developed back pain in _____. Physical therapy and medications were not helpful. An 8/28/96 MRI of the lumbar spine suggested right-sided difficulty at the L4-5 level, consisting possibly of disk rupture. Because of continued trouble despite conservative management, A lumbar CT myelogram was carried out on 10/17/96, which showed left sided difficulty, possibly secondary to disk rupture at the L4-5 level. There were similar findings at the L3-4 level. In December 1996 a lumbar laminectomy and discectomy at the L3-4 and L4-5 levels was performed. The patient had continued difficulty, which was treated by physical therapy, medications, facet blocks and epidural steroid injections. A 3/10/04 CT scan of the lumbar spine showed surgical defects and severe chronic change with probable scarring, which is frequently associated with chronic pain, requiring medications.

Requested Service(s)

Prescriptions for Protonix, Promethazine, Pentax/APAP, Carisprodol 6/2/03 – 7/15/03

Decision

I disagree with the carrier's decision to deny the requested medications.

Rationale

It is not at all unusual for chronic pain patients to get significant relief with the chronic use of Soma. Also, muscle relaxers and pain medications such as Pentax are frequently necessary. To combat the nausea associated with the pain medication, and to combat the potential development of ulcer medications such as Promethazine and Protonix are indicated. In a case such as this, these or similar medications may be necessary for a prolonged period.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.